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EXAMINER	
SAGER, MARK ALAN	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

HH

Office Action Summary	Application No.	Applicant(s)	
	10/681,447	BOZEMAN, ALAN KYLE	
	Examiner	Art Unit	
	M. A. Sager	3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *2/27/06 and paper mailed 9/13/06*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action ~~or form PTO-152~~.

mcs

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Allowable Subject Matter

1. The indicated allowability of claims 1-28 is withdrawn in view of reconsideration of breadth of scope of claims and the newly discovered reference(s) to Koza, Anderson, Guttin, Itkis, Walker, and Baerlocher. Rejections based on the newly cited reference(s) follow.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

> The oath or declaration is defective because:
> It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

Claim Interpretation

3. With respect to claim interpretation for clarification of record, the language 'alphabetical play phrase' (or similar terminology) includes any coherent text or any text or a word or includes an alphanumeric sequence as per Applicants specification (abstract, paragraphs 45, 52, 58-59, 62-63, 79, 82, 86) that although includes listing that the play phrase is quotes, film titles, fortune cookies or even simple list of words fitting a theme as cited from specification (paragraph 82), the language is broader and includes any text at least since that although Applicant may be their own lexicographer, in this instance, Applicant did not provide a clear definition (paragraph 32) and the examples cited in the listing (para 82) are merely examples. In consideration of intrinsic evidence, the

specification permits letters, alphanumeric, numbers, symbols as characters or indicia and that a player may enter a word or any coherent text can form the play phrase or can be any text at least since specification states a player may write the desired word and states any coherent text (abstract, paragraphs 58-59, 62-63, 79). Further, in consideration of extrinsic evidence, phrase is defined within Webster's II New Riverside University Dictionary, copyright 1994, to be (1) a sequence of words regarded as a meaningful unit or, (2) a concise or familiar expression: CATCH PHRASE or, (3) a word or group of words read or spoken as a unit and separated by pauses or other junctures or, (4) two or more words in sequence comprising syntactic unit or groups of syntactic units, less completely predicated than a sentence. In consideration of specification as a whole (by itself or, in conjunction with extrinsic evidence), the broadest reasonable interpretation of the claimed invention including 'alphabetic play phrase' (or similar language) is any coherent text that may include a word, and a series of letters or numbers or alphanumeric is coherent text. Also, a single word is any text and a word can form a phrase or sentence such as but not limited to GO, NO, STOP, HALT, or further text includes CLOUD 9 or B5 or I21, as broadly claimed. Further, regarding a plurality of words, presently only claims 2, 14, and 21-28 require a plurality of words. It is acknowledged that specification includes forms of lottery game with a plurality of words; however, breadth of claimed invention does not presently require a plurality of words in all claims. Further, alphabetic of alphabetic play phrase is deemed to limit invention to require letters or alphanumeric; while, word-based play phrase is deemed to require word(s), however, although alphabetic play phrase requires letters, it is not limited to word(s). Further, text such as B5, I18, N38, G50, and O72 is an alphabetic play phrase as coherent text of an

alphanumeric sequence from a lotto game of bingo deemed inclusive within breadth of claimed invention. Also claimed invention including 'play phrase comprising a plurality of words', the breadth of claim language includes a plurality of words that may include words associated or relate to a topic or theme similar to word find or search puzzles that include a plurality of words related to a topic or theme.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 22 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a letter distribution of the randomly selected alphabetic indicia (abstract, paragraphs 72 and 80-81), does not reasonably provide enablement for plurality of characters are based on a letter distribution, as claimed. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make/use the invention commensurate in scope with these claims. Essentially, the stored alphabetic play phrase having a plurality of words defined by a plurality of characters is player selected (or machine for quick pick as player selection) phrase that is not taught or suggested to be limited by a letter distribution, but rather the random selection of matching indicia being letters is taught as being randomly selected based in part on letter distribution.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-10 recites the limitation "said alphanumeric" in 15 and 18; however, lines 2, 3, 12, 14 refer to alphabetic and although alphanumeric includes alphabetic characters or indicia it is unclear as to whether 'alphanumeric' is different or same game play information due to adding numeric symbols/indicia. Further, 'alphanumeric' includes consideration of claim interpretation for symbols/indicia such as CLOUD9 or B7, I16, N32, G60 and O72 (or similar) as game information. There is insufficient antecedent basis for this limitation in the claim.

Claim Objections

8. Claims 11-20 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. 'keno', 'powerball', 'pick-3' or 'pick-4' is not further limiting to 'lotto' in that each is a form of lotto/lottery.

Double Patenting

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1-28 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 29-38, 40-47 and 49 of copending Application No. 10662736. Although the conflicting claims are not identical, they are not patentably distinct from each other because applicant is entitled per statute to one patent for one invention whereas instant claimed invention is anticipated by or obvious form of the apparatus and method of Bozeman's '736 claims. For instance, Bozeman '736 claimed game input unit is presently claimed lottery input unit, Bozeman '736 claimed game input unit as a touch-screen device is presently claimed display unit, Bozeman '736 claimed controller is presently claimed controller where claimed functions or process is/are performed/conducted by Bozeman '736 apparatus/method.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 3, 5-7, 9-13, 15 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Koza (5112050). This holding is maintained from office action mailed March 7, 2007 in parent application 10662736 for invention as defined by cited claims which is incorporated herein but clarified next. While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also In re Swine hart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original). Where alphabetic play phrase includes any text (sic), in this case, claimed invention fails to patentably distinguish over apparatus and method of Koza since Koza discloses a apparatus and method as a lottery terminal apparatus and network lottery game in a network of terminals including first and second lottery terminal apparatus having respective first and second controller in communication to perform lottery functions (2:51-3:20, 3:43-4:4, 4:13-5:28, 6:9-12, 6:21-39, 11:28-68, 12:36-13:30, figs. 1-6) teaching claimed features performing claimed steps, as broadly claimed, including a lottery input unit for receiving alphabetic game play information from user (2:51-3:20, 3:50-52, 6:9-29, 11:14-68, 12:36-63, ref 10, 70-72), a display unit for visually displaying received alphabetical game play information (ref 42), a value

input device such as via keyboard, impregnating device or play slip or card reader (3:10-20, 3:50-52, 6:9-29, 11:28-38, 11:60-68, 12:36-63, ref 19, 72), a wager input device such as coin slot (11:40), a controller operatively coupled to display unit and value input unit and to a network interface device (2:51-3:20, 8:65-11:2, 11:28-13:2, fig. 1-6, or inherent, per MPEP 2131.01, see either Goldman 3:61-5:40, ref 12; or Luciano, 2:66-3:9, 5:66-6:3, 7:20-9:15, ref 130), the controller receives wager data in response to wager made by a player (11:39-40), assigns prize value to received alphabetic game play information or to each of the words in the play phrase where play phrase includes a word that is a phrase or sentence and prize value is per pay table that is based in part on degree and/or order of matching indicia including numbers and/or letters of word (3:10-20, 5:26-28, 5:31-32, 49-51, 7:25-58, 8:4-5, 9-11, 12:36-13:2 or inherent, per MPEP 2131.01, see either Goldman 3:61-5:40, ref 12; or Luciano, 2:66-3:9, 5:66-6:3, 7:20-9:15, ref 130), randomly selects an alphabetic sample and determines a correlation between alphabetic sample and alphanumeric game play information (3:10-20, 4:51-54, 5:24-28, 6:32-39, 7:25-66, 8:4-11, 11:28-13:2 or inherent, per MPEP 2131.01, see either Goldman 3:61-5:40, ref 12; or Luciano, 2:66-3:9, 5:66-6:3, 7:20-9:15, ref 130), determines a payout value based on correlation between alphabetic sample and alphanumeric game play information and prize value (2:51-3:20, 3:64-4:12, 6:21-43, 7:26-41, 7:48-58, 9:41-68, 12:36-13:16), the memory stores a probability distribution indicative of frequency at which each alphabetic character occurs (12:36-13:2, implicit in consideration of repetition of any particular indicia within set of symbols/words) causes a video image to be generated on display unit representing a lottery game (supra), a wireless networking device (4:18-36, 6:49-68), transmits lottery information on a secure wireless network (5:58-60). Further, regarding

determining a payout value, Koza provides a payout value based upon a correlation among the character string, the alphabetical play phrase, the prize value and the wager as a matching of letter grouping (sic). It is noted that Applicants' instant specification includes determining a payout value based upon matching letter group or grouping that is one form of determining a payout encompassed by clam language in a similar manner taught by Koza, thus claimed functional recitation in apparatus fails to preclude Koza.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claims 2 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koza in view of either Baerlocher (5788573) or Walker (5921864). This holding is maintained from office action mailed March 7, 2007 in parent application 10662736 for invention as defined by cited claims as clarified next. Koza discloses claimed invention including a word as a phrase or sentence (supra) but lacks 'words in a phrase'. The term 'words' or 'words in a phrase' is interpreted as requiring a plurality of words; however,

'words in a phrase' is maintained from cited prior action as including a plurality of words that is any coherent text that includes call numbers and letters for the lotto game of bingo. Also, a plurality of words is not structure that overcomes structure taught by Koza (sic). Further, a game of chance including a plurality of words in a phase is taught in Wheel of Fortune phrase game as discussed by Baerlocher (1:21-27, 4:4) or Walker (abstract, 4:18-19 and 23-35). It is reiterated that difference in indicia from number selection to letter or word selection fails to patentably distinguish in so far as type of indicia used [number vs. alphabet vs. alphanumeric symbols vs. word vs. words vs. phrase] in a lotto game fails to distinguish over art or in so far as alteration of odds by use of alphabetic or alphanumeric indicia or word or words or phrase vs. number range is maintained as obvious for alteration of odds and design choice of indicia used. So as to be clear for the record, use of alphabet, words or phrases in a lotto or lottery scheme is merely choice of symbol/indicia which is not deemed patentable over a lottery that uses another set of symbols/indicia such as numbers at least since changing odds by using 26 letters of alphabet (36 for alpha-numeric) or another range rather than ten digits (0-9) fails to patentably distinguish over conventional lottery game (altering odds of game of chance is known/obvious for causing larger jackpots/awards while lowering probability of matching indicia so as to attract player participation and thus increase revenue through increased play). Further, a plurality of words such as words in a phrase is similar to a plurality of indicia where words or a phrase containing a plurality of words or the letters of the words are the indicia that may be order specific. Koza teaches a plurality of indicia with respect to win determination that is deemed teaching or suggesting a plurality of indicia including letters or word (7:31-32, 36-41, 48-58, 12:36-13:2). Koza further

suggests order specificity of indicia of numbers or letters (7:25-58, 12:35-13:2). Thus, it would have been obvious to an artisan at a time prior to the invention to add 'words in a phrase' as taught/suggested by either Baerlocher or Walker to Koza so as to increase interest from players for particular topic or theme. Essentially, in this case, the particular indicia selected by player or generated as winning combination fails to patentably distinguish over Koza at least since games of chance that include a phrase having a plurality of words are known such as phrase game taught by either Baerlocher or Walker suggest a phrase comprising a plurality of words so as to increase the complexity of game and increase size of jackpot prize due to decreased probability of winning.

16. Claims 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koza in view of either Guttin (6241246) or Baerlocher ('573) or Walker ('874). Koza discloses claimed invention including a word as a phrase or sentence including a word as an alphabetic play phrase (sic), the plurality of characters of play phrase implicitly includes a letter distribution, defining a price point and percentage return (7:26-8:17), implicitly defines a sample size of indicia to draw (1:14-2:3, 2:47-3:20, 6:21-43, 7:26-33, 9:41-54, 12:35-13:2), stores list of play phrases (12:24-62), storing a custom play phrase (5:24-28, 6:9-12, 44-48), randomly selecting alphabetic indicia (12:24-62), matching alphabetic indicia to a plurality of characters (12:24-62), determining a win status (12:24-62), but lacks alphabetic play phrase having a 'plurality of words' and although Koza includes assigning a prize value to a play phrase having a word that is any coherent text (supra), Koza lacks assigning a prize to each word in a play phrase of a plurality of words. A phrase having a plurality of words in a game of chance is taught/demonstrated in Wheel of Fortune phrase game as discussed by Baerlocher (1:21-27, 4:4) or Walker

(abstract, 4:18-19 and 23-35) or, alternatively as taught by Guttin (abstract, 1:46-2:14, Figs. 1-4) where the play phrase including a plurality of words includes any text. Koza teaches a plurality of indicia with respect to win determination that is deemed teaching or suggesting a plurality of indicia including letters or word but deemed obvious where words is the indicia (7:31-32, 36-41, 48-58, 12:36-13:2). Koza further suggests order specificity of indicia (7:25-58, 12:35-13:2). Thus, it would have been obvious to an artisan at a time prior to the invention to add 'plurality of words' as taught/suggested by either Baerlocher or Walker or Guttin to Koza so as to increase interest from players for particular topic or theme. Essentially, in this case, the particular indicia selected by player or generated as winning combination fails to patentably distinguish over Koza at least since games of chance that include a phrase having a plurality of words are known such as phrase game taught by either Baerlocher or Walker or Guttin suggest a phrase comprising a plurality of words so as to increase the complexity of game and increase size of jackpot prize due to decreased probability of winning. Further regarding assigning a prize value to each of the words in a play phrase that includes a plurality of words, Koza teaches assigning a prize value to a play phrase and based in part on partial matching (supra) but not where the play phrase includes a plurality of words. Guttin further teaches assigning a prize value to each of the words in a play phrase that contains a plurality of words (ref 8). Thus it would have been obvious to an artisan at a time prior to the invention to add assigning a prize value to each of the words in the play phrase as taught by Guttin to Koza in view of either Baerlocher or Walker or Guttin to provide payout based in part on number of words matched.

17. Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koza in view of either Itkis (4856787) or Luciano (6168521). Koza discloses claimed invention (supra) but lacks touch-screen. Itkis and Luciano each disclose apparatus for lotto play teaching use of touch-screen for input of game play information since a touch-screen permits input directly to display screen. Thus, it would have been obvious to an artisan to add touch-screen as taught by either Itkis or Luciano to Koza to permit direct input to output device or so as to permit reduction or elimination of additional player input device(s).

18. Claims 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koza in view of Anderson (6428412) or Scrabble. Koza discloses claimed invention (supra) but lacks wildcard. It is notoriously well known in gaming to include wild symbols for player formulation of player input/hand in win determination that generally increases probability of forming a win combination when a player has a wildcard to be used. Anderson and Scrabble each disclose a word game that includes wildcard indicia for word formulation. Thus, it would have been obvious to an artisan to add wildcard as taught by either Anderson or Scrabble to Koza to permit direct input to output device or so as to increase probability of forming a win combination whenever a player has a wildcard to be used which increases player interest to continue playing and increasing revenues thereby from the increased or continuance of play.

19. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koza in view of Olson (608062). Alternatively, where Koza lacks features of cited claim, Koza includes first and second lottery terminal apparatus but appears to lack features of claimed network such as within second lottery terminal apparatus by communicating a

plurality of lottery information to second controller. Olson discloses a lotto gaming apparatus and method teaching first and second lottery terminal apparatus in a network arrangement as claimed for communicating a plurality of lottery information between first and second controller (abstract, 1:41-3:34, figs. 2-7, ref. 11, 20, 30) for central control of regional, state, national or international lotto functions. Thus, it would have been obvious to an artisan at a time prior to the invention to add within second lottery terminal apparatus by communicating a plurality of lottery information to second controller as taught by Olson to Koza for central control of regional, state, national or international lottery functions.

20. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koza in view of either Guttin or Baerlocher or Walker as applied to claim 21 above, and further in view of Roberts. Koza in view of either Baerlocher or Guttin or Walker discloses invention (supra) except preprinted card game. Koza discusses preprinted card games as known forms of lotto presentation (1:14-2:44, esp. 2:16-39). Roberts discloses a lotto game teaching a preprinted card game (abstract, 1:58-3:4, 4:14, 22-46, figs. 1-8B, ref 19). Since some players prefer preprinted card game as a tangible non-electronic form of lotto play it would have been obvious to an artisan at a time prior to the invention to add preprinted card game as taught by Roberts to Koza in view of either Baerlocher or Guttin or Walker so as to provide a form of lotto that is preferred by some players who like the tangible form over an electronic game form.

Response to Arguments

21. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Casa discloses a lotto play slip that includes use of letters. Sarno discloses a lottery using words as indicia.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M. A. Sager
Primary Examiner
Art Unit 3714

mas